

09/817,138
YOR920000569US1

REMARKS

Attached hereto is an Excess Claims Fee Letter and fee for one excess total claim.

Claims 1-26 are all of the claims presently pending in the application. New claim 26 has been added. Claims 1-25 stand rejected on prior art grounds.

It is noted that no amendment to any claim herein should be construed as a disclaimer of any interest in or right to an equivalent of any element or feature of the amended claim.

The Examiner objects to claim 6. Applicants believe that the claim amendment to claim 6 addresses the Examiner's concern and respectfully requests that the Examiner reconsider and withdraw this objection.

Regarding the prior art rejections, claims 19-22 and 24 stand rejected under 35 U.S.C. §102(e) as anticipated by US Patent 6,128,608 to Barnhill. Claims 1 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US Patent 5,987,181 to Makiyama et al, further in view of US Patent 5,911,074 to Leprince et al. Claims 2-7 and 11-16 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Makiyama/Leprince, further in view of US Patent 4,967,368 to Bolling et al. Claims 8 and 17 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Makiyama/Leprince/Bolling, further in view of US Patent 6,584,467 to Haught et al.

These rejections are respectfully traversed in view of the following discussion.

09/817,138
YOR920000569US1

I. THE CLAIMED INVENTION

Applicant's invention, as disclosed and claimed in independent claim 1, is directed to a method of optimizing a solution for a complex problem solvable by more than one vendor's software tool packages. Formatted problem data is input into each of software tools supplied from different tool vendors. A comparative ranking is then determined of the solutions resulting from the different vendors' software tools, using one or more ranking parameters.

Conventional methods fail to teach or suggest sending the same problem to more than one vendor tool and then ranking results of the various tools, as based on comparative ranking criteria in the problem data.

II. THE PRIOR ART REJECTIONS

The Examiner alleges that Barnhill anticipates the present invention as defined by claims 19-22 and 24, and when modified by Leprince, renders obvious claims 23 and 25. The Examiner also alleges that Makiyama, when modified by one or more of Leprince, Bolling, or Haught, renders obvious the present invention as defined by claims 1-18.

Applicants respectfully disagree.

Relative to the rejections based on Barnhill, this reference teaches, at most, only a single software tool from a single vendor. Indeed, Applicants submit that this reference more reasonably describes the development of a single tool, rather than exercising a problem on different tools. Since there is no plurality of tools from different vendors, each producing a solution, there inherently can be no comparative ranking of the results from the various tools

09/817,138
YOR920000569US1

from different vendors.

In contrast, the present invention defines a process in which a problem is exercised on each of a different vendor's tool. The respective results of having exercised the problem on the different tools are then ranked.

Relative to the rejections based on Makiyama, this reference teaches, at most, the storing of a repertoire of decoding tools along with a description of each tools capabilities. Unlike the present invention, Makiyama merely teaches that the optimal tool is then selected, as determined from the description of each tool. There is no need to exercise the input data on each available tool prior to determining which tool is optimal.

In contrast, in the present invention, the problem data will be exercised by each vendor's tool and each tool's result is potentially the optimal solution to the problem. The actual optimum solution will then be determined from the ranking parameters provided from the originator, which parameters define how important the various results will be ranked, in accordance, for example, to a weighting of various parameters in each solution.

Therefore, in neither Barnhill nor Makiyama is there a teaching or suggestion of comparing and ranking solutions of problem data exercised on the tools from different vendors.

The Examiner relies upon Leprince as demonstrating the conversion of data into a format for a tool, upon Bolling for demonstrating the receipt of data from a decision maker, and upon Haught for demonstrating the transmission of data to a plurality of vendors. However, none of these secondary references overcomes the deficiency identified for Barnhill and Makiyama.

09/817,138
YOR920000569US1

Thus, turning to the exemplary language of claim 1, there is no teaching or suggestion of: “... inputting a formatted problem data into each of software tools supplied by different tool vendors; and using one or more parameters to determine a comparative ranking of solutions resulting from said different vendors' software tools,” (emphasis by Applicants).

For at least the reasons stated above, Applicant respectfully submits that the present invention is clearly patentable over Barnhill and Makiyama. Therefore, the Examiner is respectfully requested to reconsider and withdraw these rejections.

Further, the other prior art of record has been reviewed, but it too even in combination with Barnhill, Makiyama, Bolling, Haught, or Leprince, fails to teach or suggest the claimed invention.

III. FORMAL MATTERS AND CONCLUSION

In view of the foregoing, Applicant submits that claims 1-26, all the claims presently pending in the application, are patentably distinct over the prior art of record and are in condition for allowance. The Examiner is respectfully requested to pass the above application to issue at the earliest possible time.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned at the local telephone number listed below to discuss any other changes deemed necessary in a telephonic or personal interview.

09/817,138
YOR920000569US1

The Commissioner is hereby authorized to charge any deficiency in fees or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Respectfully Submitted,

Date:

8/3/04



Frederick E. Cooperrider
Reg. No. 36,769

McGinn & Gibb, PLLC
Intellectual Property Law
8321 Old Courthouse Road, Suite 200
Vienna, VA 22182-3817
(703) 761-4100
Customer No. 21254